IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1290 OF 2005

Mansoor Ali Khan Pataudi ...Petitioner.

V/s

M/s. Ram Niranjan Kedia
Tours and Travels Pvt.
Ltd. & Anr. ...Respondents.

Mr. Sanjog S. Parab i/b Mulla & Mulla & Craigie Blunt
Caroe for the petitioner.
Ms. Rekha Tawade i/b M/s M.V. Kini & Co. for
respondent No.1.
Mr. D.P. Adsule, APP for the State.

CORAM: V.M.KANADE,J.

DATE : 15th April, 2005

P.C.:

1. Heard the learned counsel for the petitioner and the learned counsel for respondent No.1.

2. Petitioner is challenging the order of issuance of process passed by the Additional Chief Metropolitan Magistrate, 5th Court, Dadar, Mumbai in a complaint filed by respondent No.1 under section 138 of the Negotiable Instruments Act.

3. It is the contention of the learned Counsel appearing on behalf of the petitioner that the petitioner resigned from the Company on 25/10/1996.

His resignation was accepted on 12/5/1997 and an intimation was given to the Registrar of Companies and an entry in Form 32 was made on 31/8/2000. The cheque in question was issued by the Company on 6/12/2002 and, subsequently, after dishonour of the cheque, demand notice was issued on 16/1/2003. It is submitted that immediately the petitioner sent a reply to the demand notice informing the complainant and their counsel by letter dated 28/1/2003 that he has resigned as a director of M/s Intel Travels Pvt. Ltd. on 25/10/1996. It is submitted that in spite of this, a complaint had been filed. Petitioner has annexed a certified copy of From 32 which clearly indicates that the petitioner has resigned on 12/5/1997 when his resignation was accepted by the Company.

4. The learned Counsel appearing for the respondent No.1 submits that they were not aware about the resignation of the petitioner from M/s Intel Travels Pvt. Ltd.

5. In my view, there is sufficient evidence to indicate that the petitioner had already resigned and was no longer a director of the Company when the cheque in question was issued and, therefore, he cannot be made liable under the provisions of section

138 of the Negotiable Instruments Act. Petition is therefore allowed. The complaint qua the petitioner is quashed. The process which is issued qua the petitioner is set aside. The Trial Court is directed to expedite the hearing of the Criminal Case qua the other accused and decide it as expeditiously as possible within a period of six months.

6. All concerned to act on the copy of this order duly authenticated by the Registry.

V.M. KANADE, J.